

HOUSE JOINT RESOLUTION 839

By McCormick

A RESOLUTION urging the U.S. Congress to propose an amendment to the United States Constitution barring the federal judiciary from issuing opinions or decrees that impose significant monetary obligations on state or local governments, and to submit such constitutional amendment to the several states for ratification.

WHEREAS, in a nation that prides itself on operating under the rule of law, it is imperative that those charged with interpretation of the law avoid shrouding de facto legislation within the semblance of their judicial decrees; and

WHEREAS, as federal judges have placed onerous financial obligations on states, cities, and ultimately, individual taxpayers, state and local governments have struggled to comply with the ever more costly demands imposed upon them by an increasingly unaccountable federal judiciary; and

WHEREAS, by moving beyond their constitutionally defined powers of interpretation of the law, the federal judiciary, in many instances, has usurped the powers of the U.S. Congress and the state legislatures, thereby violating the doctrine of separation of powers; and

WHEREAS, in Federalist Paper No. 47, Alexander Hamilton wrote, "The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever. It may truly be said to have neither force nor will, but merely judgment."; and

WHEREAS, increasingly, the greatest financial burdens placed upon taxpayers come not from their elected representatives, but from broad decrees issued by an unaccountable

federal judiciary; indeed, court orders have mandated everything from spending on public education to the capacity of city sewers; and

WHEREAS, the federal judiciary has strayed so far from its constitutionally prescribed authority as to become an amalgam of all three governmental branches: executive, legislative, and judicial; and

WHEREAS, a lack of federal judicial restraint is responsible for many arduous and illegitimate financial burdens placed upon American citizens; surely, this is not the balanced political system America's founding fathers intended; and

WHEREAS, it has become necessary to amend the United States Constitution so that the federal judiciary once again comports with that most essential governing principle, the separation of powers; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED FOURTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that this General Assembly does hereby strongly urge the United States Congress, and particularly Tennessee's Congressional delegation, to propose an amendment to the United States Constitution barring the federal judiciary from issuing opinions or decrees that impose significant monetary obligations, defined as being more than one-tenth of one percent of their previous year's budget, on state or local governments, and to submit such constitutional amendment to the several states for ratification.

BE IT FURTHER RESOLVED, that an enrolled copy of this resolution be transmitted to each member of Tennessee's Congressional delegation.